

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3127 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHARATKUMAR GOVINDBHAI VIBHANI

Versus

REGIONAL PASSPORT OFFICER

Appearance:

None present for the Petitioner

MR JD AJMERA for the Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/09/96

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round, but none appeared for the petitioner. Yesterday the counsel for the petitioner made a request for listing of this case on board as he does not want to press this Special Civil Application. The petitioner has passed a slip in which he prayed that he may be permitted to withdraw this Special Civil Application with a liberty

to file afresh if required. So far as the withdrawal of the writ petition is concerned, the counsel for the respondent has no objection, but Shri Ajmera contended that the liberty should not be granted.

2. I have considered the objection raised by the learned counsel for the respondent. So far as the withdrawal is concerned, there is no objection to the same by the respondent, but Shri Ajmera is correct to contend that the liberty cannot be granted merely on asking of the petitioner. The petitioner has not made out any case whatsoever for grant of the liberty to file fresh petition, if required. Liberty can be granted only when the case is made out for the same. Merely because the petitioner has got the relief in the present case under the interim relief, he now does not want to press this petition i.e. he is avoiding to take the decision on merits and seeking the liberty for filing the fresh petition, so that in case any action is taken after the interim relief is vacated by this court he may approach this court. The petitioner cannot be allowed to play the tricks with the court. Once he has filed this petition and interim relief has been granted to him then no such liberty can be granted for filing fresh petition. So far as withdrawal is concerned, it is his choice to continue with the petition or not.

3. In the result, this Special Civil Application is dismissed as withdrawn without any liberty to file the fresh petition. Rule discharged. Interim relief granted by this Court stands vacated.